

Previously, Applicants had entered the correct information in the cover sheet for filing the present application, and now, by this Amendment, Applicants have amended the specification to include reference to the prior application, namely by adding a paragraph stating that the present application is a continuation of Serial No. 09/194,025, now U.S. Patent No. 6,255,108. Therefore, Applicants respectfully submit that the present application is entitled to the priority date of the prior application.

Claims 5 and 14 were objected to for containing informalities stating that the claims recite an abbreviation "HVT" without explanation of the abbreviation. Applicants respectfully submit that the abbreviation "HVT" is understood by one of ordinary skill in the art, where "HVT" stands for "herpes virus of turkeys". This is also shown, for example, in the attached front page of U.S. Patent No. 6,514,754 to Griffin et al in which the Abstract which also demonstrates that herpes virus of turkeys is identified with the abbreviation HVT. In order to more clearly and specifically define the abbreviation, Applicants have amended the claims to affirmatively recite herpes virus of turkeys. Based on the foregoing discussion, Applicants respectfully request that the objection to claims 5 and 14 be withdrawn.

Claims 10-14 and 8-9 were rejected under 35 U.S.C. § 112, first paragraph, for containing subject matter not described in the specification in that the claims recite cell lines and vectors, respectively, in which the deposit of the cell lines and vectors, respectively, is deemed necessary by the Examiner to enable the current invention, citing 37 C.F.R. § 1.808(a). Applicants respectfully traverse the rejection as follows.

With regard to the deposited cell lines as reflected in Claims 10-14, the Examiner correctly recognized that these cell lines have been deposited as indicated. Applicant

thus states through counsel of record as undersigned below that the deposit has been made under the terms of the Budapest Treaty and that all restrictions imposed by the depositor on the availability to the public of the deposited material will be irrevocably removed upon the granting of a patent on the present application. Accordingly, the Examiner's rejection of Claims 10-14 is respectfully traversed.

With regard to the vectors as referenced in Claims 8 and 9, however, these vectors are described in sufficient detail in the present invention such that one skilled in this art would readily be able to practice the present invention. In particular, vector pDAMT is specified in detail in Figure 1 and vector pphMT is specified in detail in Figure 2 (as referenced at page 6 of the specification), and these drawings described in full detail each and every segment of these plasmids in terms (SV40, etc.) that would be readily understood by one of ordinary skill in this art. Accordingly, the skilled practitioner is clearly informed by the present invention with all of the details necessary to practice Claims 8 and 9, and these claims are clearly proper under 35 U.S.C. § 112, first paragraph. Therefore, Applicants respectfully request that the rejection to claims 10-14 and 8-9 under 35 U.S.C. § 112, first paragraph, be withdrawn.

The Examiner raised a non-statutory double patenting rejection of claims 1-14 alleging that the claims are not identical although not patentably distinct from U.S. Patent No. 6,255,108.

Without addressing the merits of the Examiner's rejection, Applicants first point out that since the present application and U.S. Patent No. 6,255,108 have the same priority date, any patent issuing on the present application and U.S. Patent No. 6,255,108 will necessarily expire on the same date absent any patent term

extension. Therefore, it is not necessary to file a Terminal Disclaimer in this case as the present application will not extend beyond the term of U.S. Patent No. 6,255,108. However, in order to expedite prosecution of the present application and in order to move the present application to allowance, by this Amendment, Applicants have voluntarily submitted a Terminal Disclaimer, disclaiming any terminal part of any patent issuing on this application which would extend beyond the term of the prior Patent No. 6,255,108.

Claims 1-14 were rejected under 35 U.S.C. § 112, second paragraph for various reasons as set forth by the Examiner at page 6 of the Official Action. Without addressing the propriety of the specific objections, Applicants have amended claims 1-14 in a manner that makes it clear what the subject matter of the present invention is, without reducing the subject matter of the claims in scope, and clearly include all active steps for carrying the invention. Accordingly, Applicants respectfully submit that the amendment to the claims obviates any outstanding the rejections under 35 U.S.C. § 112, second paragraph, and that such rejections should now be withdrawn.

In view of the foregoing, Applicants respectfully submit that the present application is now in condition for allowance, and such action is earnestly solicited.

Respectfully submitted,
LARSON & TAYLOR, PLC



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ATTACHMENT A

New Paragraph

At the following location, a new paragraph is provided.

Page 1, between the title and line 1:

This is a continuation of U.S. Patent Application Serial No. 09/194,025, filed on
February 12, 1999, now U.S. Patent No. 6,255,108 which is a 371 of PCT/FR97/
00897 5-22-97.

6 (Currently Amended) The method of claim 1, wherein it the virus is a virus chosen among selected from the group consisting of duck adenovirus, duck parvovirus and duck reovirus.

7 (Currently Amended) The method of claim 1, wherein it the virus is a virus chosen among selected from the group consisting of poxvirus, canarypox, fowlpox, Marek's Disease Virus serotype 1, Marek's Disease Virus serotype 2, herpes virus of turkeys (HVT) and Gumboro disease virus.

8 (Currently Amended) The method of claim 1 wherein the avian cells comprise, the SV40 T+t gene integrated into their the genome of the avian cells, the SV40 T+t gene.

7. (Original) The method of claim 6, wherein the SV40 T+t gene is under the control of the MTI promoter.

8. (Currently Amended) The method of claim 1, wherein the avian cells integrate comprise the vector pDAMT integrated into their the genome the vector pDAMT of the avian cells.

9. (Currently Amended) The method of claim 1, wherein the avian cells integrate
comprise the vector pphMT integrated into their the genome the vector pphMT of the
avian cells.

5 10. (Currently Amended) The method of claim 8, wherein the avian cell line is cell
line TDF-2A bcl-2, which is deposited in the CNCM under reference number I-1709.

3 11. (Currently Amended) The method of claim 2, wherein the avian cell line is cell
line TCF-4.10 bcl-2, which is deposited in the CNCM under reference number I-1711.

12. (Currently Amended) A method for producing viruses, wherein a virus is
produced on in an avian cell line TCF4.10 which is deposited in the CNCM under
reference number I-1710, said method comprising:
providing avian cells from the avian cell line TCF4.10 which are immortalized, but
untransformed;
inserting a viral gene into the avian cells;
culturing the avian cells; and

ATTACHMENT B

Marked Up Replacement Claims

Following herewith is a marked up copy of each rewritten claim.

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1. (Currently Amended) A method, for producing viruses, ~~wherein a virus is~~
~~produced on in an avian cell line, said method comprising:~~
~~providing avian cells which are immortalized, but untransformed;~~
~~inserting which comprise, integrated into their genome, an anti-apoptotic bcl-2~~
~~gene into the avian cells;~~
~~culturing the avian cells; and~~
~~expressing the anti-apoptotic bcl-2 gene so as to produce a virus or a viral~~
~~peptide, protein, glycoprotein, or protein molecule.~~

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1. (Currently Amended) The method of claim 1, wherein ~~it the virus~~ is an avian virus.

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3. (Currently Amended) The method of claim 1, wherein ~~it the virus~~ is a duck virus.

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JM
5/29/03

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with B. Aaron Schulman on 5-21-2003.

The application has been amended as follows:

In the Claims

Claims 8 and 9 have been canceled.

Claim 1 was replaced with the following:

1. A method for producing viruses in an avian cell line, said method comprising:
providing avian cells which are immortalized, but untransformed;
inserting an anti-apoptotic bcl-2 gene into the genome of said avian cells;
culturing said avian cells to
express the anti-apoptotic bcl-2 gene so as to allow said avian cells to produce a virus or
a viral peptide, protein, glycoprotein or protein molecule.

Claim 12 was replaced with the following:

10 12. A method for producing viruses in the avian cell line TCF4.10 which is deposited in the
CNCM under reference number I-1710, said method comprising:

providing avian cells from the cell line TCF4.10 which are immortalized, but untransformed;

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inserting a viral gene into the genome of said avian cells;

culturing said avian cells to

express the viral gene so as to allow said avian cells to produce a virus or a viral peptide, protein, glycoprotein or protein molecule.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert A. Zeman whose telephone number is (703) 308-7991.

The examiner can normally be reached on Monday- Thursday, 7am -5:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynette Smith can be reached on (703) 308-3909. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4242 for regular communications and (703) 308-4242 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

Robert A. Zeman
May 21, 2003

Lynette R. F. Smith
LYNETTE R. F. SMITH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

expressing the viral gene so as to produce a virus or a viral peptide, protein, glycoprotein, or protein molecule.

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~~13.~~ (Currently Amended) The method of claim ~~12~~, wherein it the virus is an avian virus.

12
~~14.~~ (Currently Amended) The method of claim ~~12~~, wherein it the virus is a virus chosen among selected from the group consisting of poxvirus, canarypox, fowlpox, Marek's Disease Virus serotype 1, Marek's Disease Virus serotype 2, herpes virus of turkeys (HVT) and Gumboro disease virus.